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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,808	02/24/2004	Vernon Meadows	BS00-072-CON	1192
39262	7590	03/15/2007		
MERCHANT & GOULD BELLSOUTH CORPORATION			EXAMINER	
P.O. BOX 2903			D AGOSTA, STEPHEN M	
MINNEAPOLIS, MN 55402				
			ART UNIT	PAPER NUMBER
			2617	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/784,808

Applicant(s)

MEADOWS ET AL.

Examiner

Stephen M. D'Agosta

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 15 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-14, 16-19 and 21-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

1. The amendment (eg. adding in that the device will continue to emit a signal even if turned off) can be broadly viewed in several manners:

a. If the monitoring device is used on a convict/felon, all they have to do to overcome being monitored is "break" the device and/or turn it off (eg. if it has an on/off switch).

b. Typically these types of devices are built such that there is NO on/off switch, hence the person being monitored cannot "turn off" the transmitter.

c. The applicant clearly admits in their specification (page 17) that "...*These wireless devices can be easily modified to always run in standby, so that they can be monitored at all times*. Therefore, even when the wireless device operator turns off the wireless device, the device continues to transmit low power control signals for monitoring. While this feature is useful for monitoring other individuals, it is also useful for tracking devices such as misplaced cellular telephones, pagers, and personal digital assistants". Hence, if monitoring a convict/felon who may be predisposed to breaking the device and leaving town, this continuous transmission mode would allow said person to be caught.

d. From a last perspective, one skilled can also provide a "stealth means" for turning on the transceiver (eg. via a second transceiver on the device) which the monitored person is unaware of.

e. It is the examiner's position that the ability to have a continuous transmit mode is a design feature and can be implemented if/when there is cause to believe the person being monitored may in fact attempt to turn off the device.

- The double patenting rejection is overcome by the Terminal Disclaimer.
- Further amending of the claims is advised for a more favorable outcome.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 15 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Karp et al. US Patent 6,154,727 in view of Elliot US 6,243,039 (hereafter Karp and Elliot) and Suarez et al. US 6,298,306.

As per **claims 1, 15 and 20**, Karp teaches a system for monitoring the geographical location of individuals within a region from a remote location, comprising:

- a) at least one wireless communications device having a transmitter for transmitting control signals (see figure 10a)
- b) a plurality of receivers located across a geographical region for detecting control signals transmitted by wireless communications devices (see figure 10a)
- c) a location processor for determining location information corresponding to at least one wireless communications device (figures 6 and 9 show database records for tracking an individual, the database/location program is called Cyberhealth and tracks a user as they help patents. This database can be accessed and the location of a person can be tracked/viewed) according to control signals detected by the plurality of receivers, (ref. figures 1 and 6 AND abstract for a, b and c above. Also see C2, L52-60 and figure 10a which teaches tracking a cellular phone via the network signals)

but is silent on

- d) an Internet server for providing location determined in the location processor pertaining to at least one wireless communications device to authorized users through the Internet.

The examiner puts forth that **Karp** shows the tracking computer system being connected to a telecommunication system which would easily be replaced with the Internet by one skilled in the art to take advantage of its ubiquity and reduction in toll charges. **Elliot** teaches a locator system whereby the position data of a person (eg. child) can be tracked and uploaded to an Internet site/server so that a second person (eg. parent) can view their whereabouts on said website (figures 1 and 4):

As a novel feature of the present invention, the system provides multiple interface means such that the current and historical location of a child or any other individual wearing or carrying the device may be observed at anytime by another person or persons. These interfaces are made available via a web server and a call center. With the use and convenience of the Web and the Internet, the observation of a child's or other person's movements may be conducted from anywhere accessible by a computer with a Web browser and Internet access. A web server with its associated files provides graphical maps capable of showing the current and historical locations of the device. With the use and convenience of a VRU, a determination of the location may be conducted from any telephone. Therefore, the present invention provides multiple mechanisms for determining and viewing remotely, the current and historical locations of the device in various display formats. (C2, L60 to C3, L9)

Furthermore, Suarez teaches the ability to initiate communications with the mobile device in a "stealth mode", which broadly reads on transmitting a signal even if the device has been turned OFF:

"...A tracking controller 520 is used to control the operation of a stealth receiver 502 and a stealth transmitter 504. Operation of the stealth transceiver 406 is controlled by the tracking controller 520 which controls the recovery of the beacon signals 112 broadcast by a stolen vehicle, and also controls the recovery of the current location of the dispatched vehicle from the GPS receiver 516. The tracking controller 520 then controls a transmission of a vehicle identification signal and a location signal from the stealth transmitter 504". _See figure 5 and 9, and C5, L3-11

It would have been obvious to one skilled in the art at the time of the invention to modify Karp, to provide an Internet server for access by authorized users via the Internet and continuously transmit a signal even if turned off, which provides low-cost, world-wide connectivity to the users and allows the device/user to be tracked even if they think their device is OFF.

Allowable Subject Matter

Claims 2-14, 16-19 and 21-25 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

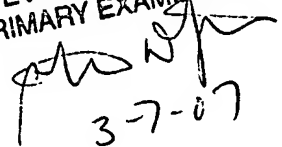
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

STEVE M. D'AGOSTA
PRIMARY EXAMINER


3-7-07